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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,888	03/05/2002	Hans Ulrich Stauber	FRR-12920	8221
40854	7590	11/01/2005	EXAMINER	
RANKIN, HILL, PORTER & CLARK LLP 4080 ERIE STREET WILLOUGHBY, OH 44094-7836			HAUGLAND, SCOTT J	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/031,888

Applicant(s)

STAUBER, HANS ULRICH

Examiner

Scott Haugland

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/31/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/5/05 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 15, "the storage places" lacks antecedent basis. "places" should be --spaces--.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3654

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann (U.S. Patent No. 6,264,133) in view of Lehrieder et al (U.S. Patent No. 6,155,516).

Herrmann discloses an installation for intermediate storage of flat articles comprising primary transport paths (extending in the Y direction parallel to rails 22 in Fig. 5), a secondary transport path (extending in the X direction in Fig. 5), stations W for establishing and dissolving storage formations of the articles, mobile supporting elements 3, 3', storage spaces L for the supporting elements, a positioning device (20, 21, and associated structure for supporting and driving them along rails 22) for transporting the supporting elements along the primary paths, and an orienting device (22 and associated mechanism for orienting and driving in the X direction).

Lehrieder et al teaches providing a roll handling facility having perpendicular primary and secondary transport paths with positioning devices 16 and an orienting device 27. The positioning devices 16 transport rolls along the primary paths while being separated from the orienting device 27. The positioning devices 16 are loadable on the orienting device 27 for transport along the secondary path. The orienting device changes the orientation of the positioning device using turntable 28.

It would have been obvious to one having ordinary skill in the art to provide Herrmann with positioning devices for transporting rolls along the primary paths while being separated from the orienting device as taught by Lehrieder et al to improve

handling efficiency by allowing the orienting device to be free to transport other positioning devices while rolls are being positioned along the primary transport paths.

### ***Response to Arguments***

Applicant's arguments filed 8/5/05 have been fully considered but they are not persuasive.

Applicant argues that the proposed combination of Herrmann and Lehrieder et al would not have a positioning device for positioning and retrieving supporting elements that cooperates with an orienting device for transporting the positioning device and for changing the orientation of the positioning device or a positioning device that transports the supporting elements along the primary paths (X-direction) separated from the orienting device and that is transported along the secondary path (Y-direction) while loaded onto the orienting device.

However, Lehrieder et al suggests providing a roll handling facility having perpendicular primary and secondary transport paths with positioning devices 16 and an orienting device 27. The positioning devices 16 transport rolls along the primary paths while being separated from the orienting device 27. The positioning devices 16 are loadable onto the orienting device 27 for transport along the secondary path. The primary paths of Lehrieder et al are the last paths along which the rolls travel to their storage locations and correspond to the primary paths (extending in the Y-direction, not the X-direction) of Herrmann. Applying the teachings of Lehrieder et al to Herrmann by, for example, providing movable first cars to transport rolls along the primary paths while

providing a second car capable of transporting the first cars and reorienting them to direct them along the primary paths would result in an apparatus including the claimed positioning device (first cars) for positioning and retrieving supporting elements (which hold rolls as disclosed by Herrmann) that cooperates with an orienting device (second car) that transports the positioning device and changes the orientation of the positioning device. The combination would include a positioning device (first car) that transports the supporting elements along the primary (Y-direction) paths of Herrmann while the positioning device is separated from the orienting device (second car). The positioning device (first car) would be transported along the secondary path (X-direction in Herrmann) while loaded onto the orienting device (second car).

Applicant further argues that Lehrieder et al operates on an entirely different principle than does Herrmann and are, therefore, not combinable.

However, like Herrmann, the apparatus of Lehrieder et al places rolls of material in storage locations along primary transport paths. Lehrieder et al uses different structures to transport the rolls, but both Herrmann and Lehrieder et al are capable of handling rolls, their supports, and other articles. The substitution of one handling device for another having similar capabilities would have been obvious to an ordinary artisan. The differences in the handling systems of Herrmann and Lehrieder et al would suggest the modification of Herrmann to provide handling devices with the capabilities of those taught by Lehrieder et al to improve efficiency. Lehrieder et al teaches unloading positioning devices 16 from orienting device 27 so that rolls can be transported along the primary paths to storage locations while the orienting device 27 is free to move

along the secondary path to receive another positioning device 16. An ordinary artisan would have appreciated that this would provide improved handling capacity and efficiency to the apparatus of Herrmann since the modified orienting device of Herrmann would be free to handle other positioning devices while one positioning device was moving along a primary path (Y-direction) to or from a storage location instead of being constrained to wait until the positioning device had delivered or retrieved a supporting element to or from storage. The references are, therefore, seen to be combinable and the combination is seen to be suggested by the teachings of the references.

Applicant argues that the combination lacks a positioning device that is movable forward with one of the supporting elements on its front side and movable backward with one of the supporting elements on its back side. However, Herrmann discloses such a positioning device. Note Fig. 4 of Herrmann. Supporting elements remain on the same side of the positioning elements whether they are traveling toward the left or right in Fig. 4. When traveling to the right (forward), the supporting elements are on the front side. When traveling backward, the supporting elements are on the back side relative to the direction of travel. The front side of positioning element 16 (Figs. 1, 2, 4) appears to hold at least a portion of roll 24 of Lehrieder et al. This front side becomes the back side upon reversal of direction as in Herrmann. In addition, the positioning devices of both Herrmann and Lehrieder et al are clearly capable of movement with the supporting elements located in the claimed manner.

Art Unit: 3654

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (571) 272-6945. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*sjh*  
sjh  
10/26/05

*Kathy Matecki*

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